

1 **SECTION III. JURISDICTION**

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3 **A.** The Court shall have jurisdiction over proceedings for the dissolution of marriage when
4 any of the following circumstances apply:

5
6 1. The underlying marriage certificate was issued by the Tribe’s Marriage Clerk.

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8 2. At least one party to the proceedings is a citizen of the Tribe and is domiciled
9 within the Reservation when the petition for divorce is filed.

10
11 3. At least one party to the proceedings is a citizen of the Tribe and the Court
12 determinates that it is appropriate to exercise jurisdiction.

13
14 **B.** When exercising jurisdiction under this statute, the Court shall, in an equitable fashion:

15
16 1. Resolve issues related to the division of personal property.

17
18 2. Resolve issues related to the division of real property located within the Tribe’s
19 territorial jurisdiction, factoring in the division of any real property located elsewhere.

20
21 3. Resolve issues related to alimony.

22
23 4. Resolve issues related to child custody, visitation and child support when
24 jurisdiction is proper under and in accordance with the Tribe’s parentage and custody laws.

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26 5. Resolve any other issues related to financial or other obligations.

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29 **SECTION IV. SIMPLE DISSOLUTION**

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31 **A.** An action for Simple Dissolution shall be commenced by the filing of a joint petition by
32 the parties that contains the following:

33
34 1. The full legal name, address, social security number and driver’s license number
35 of each party to the marriage;

- 1 **2.** The Tribal Citizenship number of at least one of the parties;
- 2
- 3 **3.** The location of each party’s domicile and the length of time each has resided at
- 4 that domicile;
- 5
- 6 **4.** A statement that the parties have no children under the age of 18, unless
- 7 emancipated, or no dependent children together, and the wife is not pregnant;
- 8
- 9 **5.** The maiden name of the child-bearing spouse and/or her name prior to the
- 10 marriage if different;
- 11
- 12 **6.** The date and location of the marriage;
- 13
- 14 **7.** The date and location of the separation of the parties;
- 15
- 16 **8.** A statement that there has been a breakdown in the marital relationship to the
- 17 point that the objects of matrimony have been destroyed and there remains no reasonable
- 18 likelihood that the marriage can be preserved, or that the parties have lived separate and
- 19 apart for one year;
- 20
- 21 **9.** A proposed division of marital property and debt that contains provisions about
- 22 how personal belongings, assets, property, and their debts are going to be divided once
- 23 the parties are no longer married. Or a statement that there are no personal belongings,
- 24 assets, debts, or property such as homes, cars, etc.
- 25
- 26 **10.** A statement that neither party is requesting alimony.

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28 **B.** A simple dissolution shall be granted by the Court without a hearing.

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31 **SECTION V. DISSOLUTION OF MARRIAGE**

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33 **A.** A decree of dissolution of marriage shall be granted without regard to the fault of the

34 parties and upon a finding that the marriage has broken down irretrievably, and that there

35 remains no reasonable likelihood that the marriage can be preserved; or the parties have mutually

36 and voluntarily lived separate and apart without cohabitation for a period of at least one year

1 immediately prior to the filing of the petition for divorce.

2
3 **B.** Fault of a party or basis for the breakdown of the marriage, is a relevant factor in
4 awarding alimony or spousal support notwithstanding the decree of dissolution of marriage
5 granted without regard to the fault of the parties.

6
7 **C.** An action for divorce shall be commenced by the filing of a petition by one of the parties
8 and shall contain the following:

9
10 **1.** The full legal name, address, social security number and driver's license number
11 of each party to the marriage;

12
13 **2.** The location of each party's domicile and the length of time each has resided at
14 that domicile;

15
16 **3.** The Tribal Citizenship number of at least one of the parties;

17
18 **4.** The names and birth dates of any children born of the marriage or of any children
19 born prior to the marriage where one of the parties is asserted to be the father;

20
21 **5.** A statement as to whether or not a spouse is pregnant at the time the petition is
22 filed;

23
24 **6.** The maiden name of the child-bearing spouse and/or her name prior to the
25 marriage if different;

26
27 **7.** The date and location of the marriage;

28
29 **8.** The date and location of the separation of the parties;

30
31 **9.** A proposed division of marital property and debt, and custody of children, if any.

32
33 **10.** A statement that there has been a breakdown in the marital relationship to the
34 point that the objects of matrimony have been destroyed and there remains no reasonable
35 likelihood that the marriage can be preserved, or that the parties have lived separate and
36 apart for one year.

1 **C.** The non-petitioning party may file a response to the petition within 30 days of receipt of
2 the petition.

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4 **D.** The response may state the facts and circumstances which show that there are no valid
5 grounds for divorce, or may seek a division of property, child custody arrangement, or other
6 relief different than that proposed by the petitioner.

7
8 **E.** A copy of the response must be served on the petitioning spouse.

9
10 **F.** Following a petition for divorce, and after the opportunity for the non-petitioning party to
11 respond, the Tribal Court shall hold a hearing unless the parties have stipulated to all matters and
12 issues pending.

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14 **G.** If the parties stipulate, and the Tribal Court is convinced that the stipulation is fair and
15 equitable, the court may enter a decree without a hearing.

16
17 **H.** If minor children are involved, the Court may order the parties to counseling, continue
18 the action for a maximum of three months to enable the parties to reconcile, or take such other
19 actions as may be in the best interests of the parties or the minor children of the marriage.

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21 **I.** Hearings shall be held within six months of the date that the petition is filed, with actions
22 involving the custody of minor children taking precedence over all other civil cases.

23
24 **J.** At the hearing, both parties shall have the opportunity to testify, call witnesses, present
25 evidence and cross-examine their spouse and any other witnesses.

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27 **K.** The intentional filing of groundless petitions shall result in the imposition of sanctions.

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29 **L.** A final order of the Tribal Court may be appealed in the same fashion and manner as any
30 other order of the Court.

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33 **SECTION VI. ALIMONY**

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35 Alimony is a form of support to a dependent spouse. The spouse must be substantially
36 dependent on the income of another spouse for the regular necessities of life. The amount of

1 alimony or spousal support will vary with the disparity of the party's incomes and the length of
2 the marriage. Alimony may be awarded for a term of years and/or upon the death or remarriage
3 of the parties.

4
5 **A.** After the equitable distribution of assets and liabilities, the Court may grant alimony to
6 either party, in a lump sum payment or in periodic payments or both.

7
8 **B.** The Court shall consider the length of the marriage, the age, physical and emotional
9 conditions of each of the parties and all sources of available income to either party.

10
11 1. All sources of available income. The Court shall recognize all sources of current
12 available separate household income when the parties have mutually and voluntarily lived
13 separate and apart without cohabitation for a period of at least one year immediately prior to the
14 filing of the petition for divorce.

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16 2. Such order may be modified, on motion of either party to reflect changes in either
17 party's economic circumstances.

18
19 **C.** Groundless filings may result in the imposition of sanctions.

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21 **D.** The Court, upon motion, shall terminate alimony to any spouse who has remarried or upon
22 the death of either party.

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25 **SECTION VII. TEMPORARY INTERIM ORDERS**

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27 **A.** The Court may issue temporary orders during the pendency of all proceedings involving
28 child custody, child support, visitation, alimony and the possession of real and personal property.

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30 **B.** Such orders may be granted upon the motion of either party or on the Court's own
31 motion. A hearing shall be held prior to the issuance of such orders, unless the Court determines
32 that an emergency exists or a party cannot be found, in which case such orders may be issued
33 without a hearing.

34
35 **C.** Emergency may be interpreted to include, but not limited to:
36

- 1 **1.** A danger of physical abuse to the spouse or the party’s child(ren);
- 2
- 3 **2.** Severe emotional abuse;
- 4
- 5 **3.** A lack of means for interim subsistence; or
- 6
- 7 **4.** The danger that the child(ren) will be removed from jurisdiction.
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9 **D.** If the initial order is issued without a hearing, a full hearing on the temporary order shall
10 be held within 14 days.

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13 **SECTION VIII. ENFORCEMENT**

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15 When either party to a divorce proceeding shall fail willfully to comply with an order of the
16 Tribal Court, the other party may file a petition with the Court alleging such failure. The Court
17 shall then issue notice to the party, which shall include a copy of the petition, and set a date for
18 the hearing. At the hearing, the Court shall take testimony as to the alleged failure to comply
19 with its order, and issue any order which it shall deem just and proper under the circumstances.

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22 **SECTION IX. SEVERABILITY**

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24 In the event that any phrase, provision, part, paragraph, subsection or section of this statute is
25 found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or
26 statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part,
27 paragraph, subsection or section shall be considered to stand alone and to be deleted from this
28 statute, the entirety of the balance of the statute to remain in full and binding force and effect.

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31 **SECTION X. EFFECTIVE DATE**

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33 Effective upon signature of the Executive or 30 days from Tribal Council approval, whichever
34 comes first, or if the Executive vetoes the legislation, then upon Tribal Council override of the
35 veto.

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CERTIFICATION